

REMARKS

Claims 1 to 26 and 28 to 46 are the pending claims, of which Claims 1, 21, 33, 34, 43, 44 and 46 are independent. Claims 1 to 3, 21, 28, 29, 33, 34 and 43 to 46 are amended, and Claim 27 is canceled without prejudice or disclaimer of the subject matter. Reconsideration and further examination are respectfully requested.

Claims 1 to 4, 6, 7, 17, 19 to 21, 24 to 38 and 40 to 42 are rejected under 35 U.S.C. § 102(e) over U.S. Patent No. 6,452,609 (Katinsky), and Claims 5, 8 to 12, 14 to 16, 18, 22, 23, 39 and 43 to 46 are rejected under 35 U.S.C. § 103(a) over Katinsky. Reconsideration and withdrawal of the rejection are respectfully requested.

By way of a non-limiting example and in accordance with one or more embodiments disclosed in the present application, a multiphase advertisement can have a first phase, such as display phase 102 of Figure 1 which includes graphical interface 100 displaying a banner advertisement in the example. In a second display phase 120, graphical interface 100 shown in Figure 2 has a different dimension (e.g., larger in this example) than that of the first phase's graphical interface. By way of a further non-limiting example, with reference to Figure 3, the graphical interface 100 in the second phase of the multiphase advertisement has incorporated a streaming media component in the multiphase advertisement, so that streaming media content can be experienced in streaming media window 150. By way of yet a further non-limiting example and with reference to Figures 7 to 12 and the pages 15 and 16 of the present application, a user can use a development tool to design aspects of graphical interface 100, such as inserting a player component (shown as element 720 of Figure 8) in a player space 715, prior to publishing the graphical interface to a web site for access by web site users.

Turning to Claim 1, a method is recited of creating a multiphase advertisement including a media component. According to the method, a first phase of the multiphase advertisement is generated, the first phase includes a graphical interface having a first dimension. A second phase of the multiphase advertisement is generated, in which the graphical interface has a second dimension that is different from the first dimension of the first phase and includes a streaming media component space. A streaming media component is built using a software player engine in accordance with a design of the multiphase advertisement's graphical interface by which at least a set of core media player variables and a set of core media player controls are predefined,

the streaming media component including a link to streaming media content. The streaming media component is incorporated into the streaming media component space of the graphical interface in the second phase of the multiphase advertisement, so that streaming media is integrated into the multiphase advertisement in the second of phase of the multiphase advertisement's graphical interface.

Katinsky fails to teach, suggest or disclose a multiphase advertisement in which streaming media is incorporated into the multiphase advertisement's graphical interface in the second of two phases of a multiphase advertisement, and fails to teach suggest or disclose incorporating a streaming media component into a streaming media space of the multiphase advertisement's graphical interface in the second phase of the multiphase advertisement, so that the streaming media component is made available to stream media content in the second phase of the multiphase advertisement's graphical interface.

Katinsky, and in particular the cited portions of Katinsky, describes a web page, as shown in Figure 1 of Katinsky, which includes a player 16 which plays streaming media content listed in a play list displayed in sequencer 15. Streaming media objects are played by a media player, by dragging an icon representing the streaming media into the play list or the player from the media icon access panel 12. As is described at col. 7, lines 52 to 67 of Katinsky, in the case that the advertising banner 18 has an associated media object, the banner itself can be used as a media icon by selecting and dragging it while selected to the play list or the player itself. In any case, a media object can only be played by Katinsky's media player 16, not by the advertising banner 18 or any other of Katinsky's web page components. Even assuming without conceding in any way that the Katinsky's player is a streaming media component, Katinsky's media player is separate from any of the other components on Katinsky's web page, and streaming media is available via Katinsky's media player independent of any phase (if a phase is even described in Katinsky, a point that is in no way conceded) of any other component on Katinsky's web page, including the Katinsky's advertising banner 18. Katinsky's media player is the only component that plays streaming media content. Katinsky's advertising banner 18 does not have a streaming media component. In fact, according to Katinsky, any media object associated with advertising banner 18 must be played by Katinsky's media player 16, not Katinsky's advertising banner 18. Katinsky describes that advertising banner 18 can be expanded, however, no portion of Katinsky's advertising banner, in its expanded state or otherwise, incorporates a streaming media

component. Katinsky's media player 16 is separate from Katinsky's advertising banner 18, and Katinsky fails to disclose a streaming media component incorporated in its advertising banner 18 at any time, let alone in a second phase of a multiphase advertisement. Nothing in Katinsky teaches, suggests or discloses a multiphase advertisement in which streaming media is incorporated into the multiphase advertisement's graphical interface in the second of two phases of a multiphase advertisement, and/or incorporating a streaming media component into a streaming media space of the multiphase advertisement's graphical interface in the second phase of the multiphase advertisement, so that the streaming media component is made available to stream media content in the second phase of the multiphase advertisement's graphical interface.

Even while the above should be sufficient reason to withdraw the § 102(e) rejection, it is further submitted that Katinsky fails to teach, suggest or disclose building a streaming media component, which includes a link to streaming media content, using a software player engine in accordance with a predefined design of a multiphase advertisement's graphical interface by which at least a set of core media player variables and a set of core media player controls are predefined. The Office Action cites col. 2, lines 31 to 50 of Katinsky. However, the cited portions of Katinsky describes a user interacting with Katinsky's media icon access panel 12 to select media objects to queue in a play list for playback by the web page's media player 16, and describes various databases used to populate Katinsky's web page's components and store information about users. Referring to the discussion commencing at col. 9, line 12 and Figure 10 of Katinsky, these databases consist of the: 1) content database identifying a media content's type, uniform resource code, title, frame rate duration and image size; 2) interface database consisting of tables used to construct the media object outline displayed in the media icon access panel 12; and 3) user database consisting of a user's authentication information, profile, preference information, list of available play lists, a list of media objects in each play list, and a history of a user's interaction with the web page. As can be seen from the description commencing at col. 9, line 12 of Katinsky, the databases described in the cited portion of Katinsky contain information to populate the media icon access panel 12 with a display outline of media objects, to populate a sequencer 14 with a play list, or to feed the player 16 media content to be played by player 16. Katinsky's databases are used to retrieve display contents for Katinsky's web page's components. A database stores values, and is not a software player engine used to build a streaming media component. Assuming without conceding in any way that the

Katinsky's media player corresponds to the claimed streaming media component, Katinsky fails to disclose building the media player using a software player engine, let alone using a software player engine in accordance with a predefined design of a multiphase advertisement's graphical interface, and nothing in Katinsky's database corresponds to a set of core media player variables and core media player controls of a predefined design of multiphase advertisement's graphical interface. Nothing in Katinsky teaches, suggests or discloses building a streaming media component, which includes a streaming media content link, using a software player engine in accordance with a predefined design of a multiphase advertisement's graphical interface by which at least a set of core media player variables and a set of core media player controls are predefined, and/or incorporating the streaming media component built using the software player engine in accordance with a predefined design of a multiphase advertisement's graphical interface into the multiphase advertisement's graphical interface.

For at least these reasons, the applied art cannot be said to teach, disclose or even to suggest the claimed invention. Claim 1 and the claims that depend therefrom are therefore believed to be patentably distinct from Katinsky. In addition, Claims 21, 33 and 34, and the claims that depend from Claims 21, 33 and 34, are believed to be patentably distinct for at least the same reasons.

Claims 43 and 44 are also believed to be patentably distinct from Katinsky for at least the above reasons. In addition, Claims 43 and 44 recite additional elements which are also believed to support a finding that these claims are patentably distinct from Katinsky. For example, Claim 43 recites first, second and third phases of a multiphase interactive advertisement, a vector-based graphical animation which runs in the multiphase interactive advertisement's graphical interface upon launch of the web page in which the multiphase interactive advertisement is incorporated, the multiphase interactive advertisement's second phase launched upon completion of the vector-based graphical animation of the first phase, the graphical interface in the second phase having a smaller dimension than the graphical interface's dimension in the first phase and including a toolbar permitting a user to interact with the multiphase interactive advertisement, and a third phase of the multiphase interactive advertisement, in which the graphical interface has a larger dimension than the second phase dimension and includes at least a streaming media component space into which a streaming media component is incorporated, so that the streaming

media component is made available to experience streaming media content in the third phase of the multiphase interactive advertisement's graphical interface.

Katinsky fails to teach, suggest or disclose three phases of a multiphase interactive advertisement, in the first phase of which a vector-based graphical animation runs in the multiphase advertisement's graphical interface upon launch of the web page in which the advertisement is incorporated, in the second phase of which the multiphase advertisement's graphical interface includes a toolbar so that a user can interact with the multiphase advertisement's second phase, and in the third phase of which a streaming media component is incorporated into a streaming media component space of the multiphase advertisement's graphical interface, so that the streaming media component is made available to experience streaming media content in the multiphase advertisement's third phase. In addition, Katinsky fails to teach, suggest or disclose three phases of a multiphase interactive advertisement, in which a dimension of the advertisement's graphical interface is smaller in the second phase than in either of the first and third phases. In addition, Katinsky fails to teach, suggest or disclose three phases of a multiphase interactive advertisement, the first phase that runs a graphic animation upon launch of the web page incorporating the advertisement, the second phase that is launched upon completion of the graphic animation run in the first phase, and the third phase that is triggered by action performed in the second phase upon completion of the graphic animation.

The Office Action concedes at page 15 that Katinsky fails to teach, suggest or disclose vector-based graphical animations, and that Katinsky fails to teach, suggest or disclose launching a second phase upon completion of a vector-based animation. At page 15, the Office Action contends that a conventional "rotating advertisement" somehow cures the conceded deficiencies of Katinsky. As conceded in the Office Action, however, a banner that rotates advertisements in a banner rotation area of a web page is not the same as running vector-based graphical animations. Since a rotating banner is not the same as a vector-based graphical animation (as conceded in the Office Action), it follows then that loading a rotating banner when a web page is first loaded cannot be the same as running a vector-based graphical animation in a first phase of a multiphase advertisement upon launch of the web page. Katinsky cannot therefore be said to teach, suggest or disclose a first phase of a multiphase interactive advertisement, or a graphical interface thereof, in which the vector-based graphical animation is run.

The Office Action contends that Katinsky discloses that "graphics of the site driven area are shown when the access page first plays", citing col. 7, lines 15 to 35 of Katinsky. However, the site driven area displays a rotating banner when the web page first plays, which the Office Action concedes does not teach, suggest or disclose, vector-based graphical animation, and/or loading a vector-based graphical animation upon launch of the web page. Furthermore, the cited portion of Katinsky pertains to when the web page first loads, and not upon completion of a vector-based graphical animation. The claimed second phase a multiphase interactive advertisement is launched upon completion of a vector-based graphical animation run in a first phase of the multiphase interactive advertisement. Katinsky's loading a rotating banner when a web page is first loaded is not the same as running a vector-based graphical animation in a first phase of a multiphase advertisement upon launch of the web page, and is not the same as the claimed second phase launched upon completion of the vector-based graphical animation run in the first phase. Katinsky's loading of a rotating banner when a web page first loads is not the same as either the first or the second phase of the claimed multiphase interactive advertisement.

The Office Action cites col. 6, lines 1 to 12 and lines 46 to 61 of Katinsky alleging that this portion of Katinsky discloses the streaming media component of the claimed third phase which has a dimension that is larger than the dimension of the second phase. At col. 6, lines 1 to 12 and col. 6, lines 46 to 61, Katinsky describes media player 16, a display window 80 of the media player 16, and an image size lock button 92, using which a user can restrict the size of the image display window 80 to its default size. When the lock is released, the image display window 80 will resize based on the media object's default size, and when the lock is set the image display window 80 will not grow larger than the image display window's default size. Even assuming without conceding in any way that the media player 16 of Katinsky corresponds to the claimed streaming media component, the media player's window is not the same as the claimed multiphase advertisement's graphical interface, which graphical interface runs a vector-based graphical animation in the multiphase advertisement's first phase (this point is conceded in the Office Action), includes a tool bar in the multiphase advertisement's second phase launched upon completion of the animation run in the graphical interface in the first phase of the multiphase advertisement (this point is also conceded in the Office Action), and incorporates a streaming media component in its' streaming media component space in the multiphase advertisement's third phase. Katinsky's media player 16 and its window 80 has

nothing to do with the phases of the claimed multiphase advertisement, the claimed multiphase advertisement's graphical interface, and/or a dimension of the multiphase advertisement's graphical interface in the second phase being smaller than a dimension of the multiphase advertisement's graphical interface in the first phase or a dimension of the multiphase advertisement's graphical interface in the third phase being larger than the dimension of the multiphase advertisement's graphical interface in the second phase.

The Office Action cites col. 8, lines 10 to 20 of Katinsky as allegedly disclosing triggering the claimed third phase by an action performed on the second phase of the multiphase interactive advertisement. Col. 8, lines 10 to 20 of Katinsky refer to Katinsky's advertising banner shown in Figures 9A to 9C and describe that a user can click on a media object indicator 130 within the advertising banner (element 122 in Figure 9A of Katinsky) to open a pop-up menu 138 and select to play the media object now or later by the media player 16. As is described in the cited portion of Katinsky, if the user selects the "Play" option from the pop-up menu 130, the media object is played immediately by the media player 16, and if the user selects the "Play Later" option, the media object is added to the play list to be played later by the media player 16. According to Katinsky, all media objects are played by Katinsky's media player 16, regardless of whether the media object's icon is the advertising banner or a media access panel icon dragged to a play list or to the media player, and Katinsky's media player 16 is a separate component in Katinsky's web page. Even assuming without conceding that Katinsky's media player is a streaming media component, Katinsky's media player is made available when the web page first loads, not in a third phase of a multiphase interactive advertisement triggered by an action performed on a second phase launched upon completion of a vector-based graphical animation launched when the web page is launched. Katinsky's media player is not incorporated into a streaming media component space of a multiphase advertisement's graphical interface in a third phase, or any phase, of a multiphase advertisement.

For at least these reasons, Katinsky cannot be said to teach, disclose or even to suggest the present invention as recited in Claim 43. Claim 43 and the claims that depend from Claim 43 are therefore believed to be patentably distinct from Katinsky. In addition, Claim 44, and the claims that depend from Claim 44, is believed to be patentably distinct from Katinsky for at least the same reasons.

Claim 46 recites a computer-readable medium containing a set of instructions comprising a vector-based graphical development application program enabling a user to specify a streaming media player display interface design for a streaming media presentation, the development application enabling the user to insert a selected set of player controls from a core set of player controls including at least a streaming media player display interface, set one or more of the player variables of the core set of player variables, to select the streaming media using a stream identifier that identifies streaming media, and to design other graphical features of the streaming media presentation's streaming media player display interface. When the streaming media presentation's graphical interface is launched in accordance with the user-inserted set of player controls including at least a streaming media player display interface and the one or more player variables set by the user, the stream identifier for the streaming media selected by the user in designing the graphical interface is passed to a backend streaming media content management system that locates and retrieves the associated streaming media and passes the streaming media to the streaming media player display interface so that the streaming media can be experienced in accordance with the user-specified design of the streaming media presentation's graphical interface.

The portions of Katinsky cited by the Office Action and discussed above focus on the web page published to the end user, and have nothing to do with a development tool used to specify a graphical interface design for a streaming media presentation prior to publication of the graphical interface.

For at least the foregoing reasons, Katinsky cannot be said to teach, disclose or even to suggest the present invention as recited in Claim 46. Claim 46 and the claims that depend from Claim 46 are therefore believed to be patentably distinct from Katinsky.

With regard to the rejection of some of the claims, the Office Action indicates that the Examiner considers elements of the claims to be "immaterial" and that "little, if any, patentable weight is given" to these elements. The Examiner is reminded that in order to make a proper rejection under § 103(a), a prima facie case must be established to show that each and every element of a claim is disclosed in the prior art, and that the claim as a whole is obvious in light of the prior art teachings. An allegation that a claimed element is "immaterial" is not sufficient to establish a prima facie case of obvious. A claim element cannot simply be disregarded out of convenience. The Office Action fails to provide any support, prior art or otherwise, and none

can be found for the position that a claimed element is "immaterial" and should be given "little, if any, patentable weight." The Examiner has failed to establish a prima facie case of obviousness. The § 103(a) rejection is improper, and should be withdrawn.

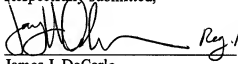
Should matters remain which the Examiner believes could be resolved in a telephone interview, the Examiner is requested to telephone the Applicants' undersigned attorney. Alternatively, since it is believed that the claims of the present application are in condition for allowance, the Examiner is respectfully requested to issue a Notice of Allowance at the Examiner's earliest convenience.

The applicants' attorney may be reached by telephone at 212-801-6729. All correspondence should continue to be directed to the address given below, which is the address associated with Customer Number 32361.

The Commissioner is hereby authorized to charge any required fee in connection with the submission of this paper, any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 50-1561. Please ensure that the Attorney Docket Number is referenced when charging any payments or credits for this case.

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